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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-071]

Sodium Gluconate, Gluconic Acid, and Derivative Products from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that sodium gluconate, gluconic acid, and derivative products from the People's Republic of China (China) are being sold in the United States at less than fair value (LTFV).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Stephen Bailey, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4162 or (202) 482-0193, respectively.

SUPPLEMENTARY INFORMATION:

Background

This final determination is made in accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act). On July 10, 2018, Commerce published in the *Federal Register* its preliminary affirmative determination of sales at LTFV investigation of sodium gluconate, gluconic acid, and derivative products from China.¹ We invited interested parties to comment on the *Preliminary Determination*. On August 9, 2018, we received a case brief from PMP Fermentation Products, Inc., the petitioner in this investigation. We received no comments from other interested parties.

For a complete description of the events that followed the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, see the Issues and Decision Memorandum that is dated concurrently with this determination and hereby adopted by this notice.² The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

Scope of the Investigation

The products covered by this investigation are sodium gluconate, gluconic acid, and derivative products from China. For a complete description of the scope of this investigation, see Appendix I to this notice.

¹ See *Sodium Gluconate, Gluconic Acid, and Derivative Products from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 83 FR 31949 (July 10, 2018) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

² See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Sodium Gluconate, Gluconic Acid, and Derivative Products from the People's Republic of China" (Issues and Decision Memorandum).

No interested party commented on the scope published in the *Preliminary Determination*. Thus, Commerce has made no changes to the scope of the investigation from that published in the *Initiation Notice* and *Preliminary Determination*.³

Period of Investigation

The period of investigation is April 1, 2017, through September 30, 2017.

Analysis of Comments Received

All issues raised in the case brief that was submitted by the petitioner in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II.

China-Wide Entity

For the reasons explained in the *Preliminary Determination*, we are continuing to find that the use of adverse facts available (AFA), pursuant to sections 776(a) and (b) of the Act, is appropriate and are applying a rate based entirely on AFA to the China-wide entity.⁴ The China-wide entity includes Shandong Fuyang Biotechnology Co., Ltd./Shandong Fuyang Biology Starch Co., Ltd. (Shandong Fuyang),⁵ Qingdao Dongxiao Enterprise Co., Ltd. (Qingdao Dongxiao),⁶ Zhejiang Tianyi Food Additives Co., Ltd. (Tianyi Food),⁷ and Dezhou Huiyang Biotechnology Co., Ltd. (Dezhou Huiyang).⁸ These companies failed to respond to Commerce's requests for information and withdrew from participation in this investigation. As these non-

³ See *Sodium Gluconate, Gluconic Acid, and Derivative Products from France and the People's Republic of China: Initiation of Less-Than-Fair Value Investigations*, 83 FR 516 (January 4, 2018) (*Initiation Notice*); *Preliminary Determination*, 83 FR at 31949 and accompanying Preliminary Decision Memorandum at 5-6.

⁴ See Preliminary Decision Memorandum at 11.

⁵ See Memorandum, "Less-Than-Fair-Value Investigation of Sodium Gluconate, Gluconic Acid, and Derivative Products from the People's Republic of China: Respondent Selection," dated January 17, 2018 (Initial Respondent Selection Memorandum). See also Shandong Fuyang letter, "Notice of Non-Participation in Investigation," dated March 30, 2018.

⁶ See Qingdao Dongxiao's Letter, "Withdrawal from Participation," dated February 14, 2018.

⁷ See Tianyi Food, see Commerce's Memorandum, "Selection of Additional Respondent," dated March 5, 2018 and Tianyi Food's Letter, "Withdrawal from Participation," dated March 8, 2018.

⁸ See Dezhou Huiyang's Commerce's Memorandum, "Selection of Additional Respondent," dated March 9, 2018 and Dezhou Huiyang's Letter, "Dezhou Huiyang Biotechnology Co., Ltd. Withdrawal of Participation in Antidumping Duty Investigation," dated March 13, 2018.

responsive companies did not demonstrate that they are eligible for separate rate status, Commerce continues to consider them to be part of the China-wide entity. Consequently, we continue to find that the China-wide entity, which includes these non-responsive companies, withheld requested information, significantly impeded this proceeding and failed to cooperate to the best of its ability.

China-Wide Rate

In selecting the AFA rate for the China-wide entity, Commerce's practice is to select a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.⁹ Specifically, it is Commerce's practice to select, as an AFA rate, the higher of: (a) the highest dumping margin alleged in the petition; or (b) the highest calculated dumping margin of any respondent in the investigation.¹⁰ There are no respondents for which we are calculating a separate dumping margin for the final determination. Thus, the highest (and only) rate on the record of the proceeding is the rate found in the Petition,¹¹ which is the only information reasonably at Commerce's disposal to determine a rate that is sufficiently adverse to induce cooperation.¹²

⁹ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316 at 870 (1994) (H.R. Rep 103-316), reprinted in 1994 U.S.C.A.A.N.

¹⁰ See *Silicon Metal from Australia: Affirmative Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances in Part*, 83 FR 9839 (March 8, 2018) and accompanying Issues and Decision Memorandum at Comment 1.

¹¹ See Petitioner's Letter, "Petition for Antidumping and Countervailing Duties: Sodium Gluconate, Gluconic Acid, and Derivative Products from the People's Republic of China and France" (November 30, 2017) (the Petition).

¹² See, e.g., *Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part*, 82 FR 28629 (June 23, 2017) and accompanying Preliminary Decision Memorandum at pages 31-32 (revised in *Certain Hardwood Plywood Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part*, 82 FR 53460 (November 16, 2017) because Commerce calculated a higher rate than the highest Petition rate to apply as the AFA rate)).

Thus, as AFA, Commerce assigned to the China-wide entity the rate of 213.15 percent, which is the sole dumping margin alleged in the Petition.¹³

¹³ See Petitioner's letter, "Petition for Antidumping and Countervailing Duties: Sodium Gluconate, Gluconic Acid, and Derivative Products from the People's Republic of China and France," dated November 30, 2017 (the Petitions), *Sodium Gluconate, Gluconic Acid, and Derivative Products from France and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 516 (January 4, 2018) (*Initiation Notice*), and Antidumping Duty Investigation Initiation Checklist: Sodium Gluconate, Gluconic Acid, and Derivative Products from the People's Republic of China, dated December 20, 2017 (China AD Initiation Checklist).

Separate Rates

For the final determination, we continue to find that the evidence placed on the record of this investigation by Anhui Xingzhou Medicine Food Co., Ltd. (Xingzhou Medicine)¹⁴ demonstrates an absence of *de jure* and *de facto* government control. Accordingly, consistent with its *Preliminary Determination*, Commerce assigned Xingzhou Medicine a separate rate, which is the petition rate, because it is the only rate available on the record of this proceeding. For a full description of the methodology underlying Commerce's final determination, see the Issues and Decision Memorandum.

Combination Rates

In the *Initiation Notice*, Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation.¹⁵ Policy Bulletin 05.1 describes this practice.¹⁶ Because Commerce determined that the mandatory respondents originally selected are not eligible for separate rate status and, thus, should be considered part of the China-wide entity and assigned, as AFA, the petition rate to the China-wide entity, Commerce did not calculate producer/exporter combination rates for those respondents.

¹⁴ See, e.g., Xingzhou Medicine's Letter, "Xingzhou Medicine Separate Rate Application," dated February 5, 2018; Commerce's Letter, "1st Supplemental Questionnaire Regarding the Separate Rate Application for Anhui Xingzhou Medicine Food Co., Ltd.," dated February 27, 2018; Xingzhou Medicine's Letter, "Supplemental SRA Questionnaire Response," dated March 6, 2018; Commerce's Letter, "2nd Supplemental Questionnaire regarding the Separate Rate Application for Anhui Xingzhou Medicine Food Co., Ltd.," dated March 22, 2018. and Xingzhou Medicine's Letter, "Second Supplemental SRA Questionnaire Response," dated March 29, 2018.

¹⁵ See *Initiation Notice*, 83 FR 516.

¹⁶ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

Final Determination

Commerce determines that sodium gluconate, gluconic acid, and derivative products from China are being, or are likely to be, sold in the United States at LTFV, and that the following dumping margins exist:

Exporter	Producer	Estimated Weighted-Average Dumping Margin (percent)
Anhui Xingzhou Medicine Food Co., Ltd.	Xiwang Pharmaceutical Co., Ltd.	213.15
Anhui Xingzhou Medicine Food Co., Ltd.	Zhucheng Shuguang Biotech Co., Ltd.	213.15
China-wide Entity ¹⁷		213.15

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the *Federal Register*, in accordance with 19 CFR 351.224(b). However, because Commerce applied AFA to the China-wide entity (which includes the companies subject to individual examination) in this investigation, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the Petition, there are no calculations to disclose.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of sodium gluconate, gluconic acid, and derivative products from China, as described in Appendix I of this notice,

¹⁷ The China-wide Entity includes Dezhou Huiyang, Qingdao Dongxiao, Shandong Fuyang, and Tianyi Food.

which are entered, or withdrawn from warehouse, for consumption on or after July 10, 2018, the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*.

Further, pursuant to section 735(c)(1)(B)(ii) of the Act, Commerce will instruct CBP to collect a cash deposit as follows: (1) The rate for the exporters listed in the chart above will be the rate we have determined in this final determination; (2) for all Chinese exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the China-wide rate; and (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the Chinese exporter/producer combination that supplied that non-Chinese exporter. These suspension-of-liquidation instructions will remain in effect until further notice. Because there has been no demonstration that an adjustment for domestic subsidies is warranted, Commerce has not made any such adjustment to the rate assigned to Xingzhou Medicine or the China-wide entity. Additionally, Commerce is making no adjustments for export subsidies to the antidumping cash deposit rate in this investigation because we have made no findings in the companion countervailing duty investigation that any of the programs are export subsidies.¹⁸

¹⁸ See *Sodium Gluconate, Gluconic Acid and Derivative Products from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 83 FR 23888 (May 23, 2018) (*Preliminary Affirmative CVD Determination*) and accompanying Preliminary Determination Memorandum at 19 (“As AFA, pursuant to section 776(a) and (b), Commerce is finding all programs initiated upon in this proceeding to be countervailable—that is, they provide a financial contribution within the meaning of sections 771(5)(B)(i) and (D) of the Act, confer a benefit within the meaning of section 771(5)(B) of the Act, *and are specific within the meaning of section 771(5A) of the Act*. Accordingly, all programs are included in Commerce’s calculation of an AFA rate for Fuyang, Hongyu Chemical, Kaisen, and Qingdao Dongxiao.”) (emphasis added). In the final determination of the companion countervailing duty investigation, Commerce made no changes to its analysis and calculations of subsidy rates from the *Preliminary Affirmative CVD Determination*. See *Sodium Gluconate, Gluconic Acid and Derivative Products from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, and accompanying Issues and Decision Memorandum.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we intend to notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. As Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of sodium gluconate, gluconic acid, and derivative products from China, or sales (or the likelihood of sales) for importation, of sodium gluconate, gluconic acid, and derivative products from China. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, Commerce intends to issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice will serve as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We intend to issue and publish this determination in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 17, 2018.

Gary Taverman,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of the investigation covers all grades of sodium gluconate, gluconic acid, liquid gluconate, and glucono delta lactone (GDL) (collectively GNA Products), regardless of physical form (including, but not limited to substrates; solutions; dry granular form or powders, regardless of particle size; or as a slurry). The scope also includes GNA Products that have been blended or are in solution with other product(s) where the resulting mix contains 35 percent or more of sodium gluconate, gluconic acid, liquid gluconate, and/or GDL by dry weight.

Sodium gluconate has a molecular formula of $\text{NaC}_6\text{H}_{11}\text{O}_7$. Sodium gluconate has a Chemical Abstract Service (CAS) registry number of 527-07-1, and can also be called “sodium salt of gluconic acid” and/or sodium 2, 3, 4, 5, 6 pentahydroxyhexanoate. Gluconic acid has a molecular formula of $\text{C}_6\text{H}_{12}\text{O}_7$. Gluconic acid has a CAS registry number of 526-95-4, and can also be called 2, 3, 4, 5, 6 pentahydroxycaproic acid. Liquid gluconate is a blend consisting only of gluconic acid and sodium gluconate in an aqueous solution. Liquid gluconate has CAS registry numbers of 527-07-1, 526-95-4, and 7732-18-5, and can also be called 2, 3, 4, 5, 6-pentahydroxycaproic acid-hexanoate. GDL has a molecular formula of $\text{C}_6\text{H}_{10}\text{O}_6$. GDL has a CAS registry number of 90-80-2, and can also be called d-glucono-1,5-lactone.

The merchandise covered by the scope of the investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 2918.16.1000, 2918.16.5010, and 2932.20.5020. Merchandise covered by the scope may also enter under HTSUS subheadings 2918.16.5050, 3824.99.2890, and 3824.99.9295. Although the HTSUS subheadings and CAS registry numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum:

- I. Summary
- II. List of Issues
- III. Background
- IV. Scope of Investigation
- V. Discussion of the Issues
 - Comment 1: Application of Adverse Facts Available (AFA) to the China-wide Entity
 - Comment 2: Whether to Assign the China-Wide Entity Rate to the Separate Rate Applicant
 - Comment 3: Whether the Scope of the Investigation Should be Modified
- VI. Recommendation

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